

Appl. No. 10/574191
Docket No. Z07918Q
Response dated April 9, 2010
Reply to Office Action mailed on 12/30/09
Customer No. 27752

REMARKS

Claim Status

Claims 1-9, 12, 13, 15-20, 22 and 23 are pending in the present application. There are no amendments to the claims at this time. No additional claims fee is believed to be due.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

1. Rejection Under 35 USC §103(a) Over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of Zelickson et al (US 7,354,423)

Claims 1-9, 12, 13, 15-20 and 22-23 have been rejected under 35 USC §103(a) as being unpatentable over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of Zelickson et al (US 7,354,423). The applicants amended the claims and argued in the response of November 30, 2009 that the combination of the references captioned above does not make the claimed invention obvious. In particular, the applicants argued that the tension sensor taught by U.S. Patent 5,133,722 does not make obvious the claimed invention having a pressure sensor to energize the device when contacting the user's skin. In response to this argument, the examiner cites new prior art in the non-final office action of December 30, 2009. This newly cited prior art is U.S. Patent 7,354,423 and it's alleged to disclose hair removal devices using sensors that unlike '722, makes obvious those applied in the present invention.

These devices in '423 are not actually epilator devices, but rather skin abrasion devices that rejuvenating skin by removing surface layers of skin comprising cornified and dead skin cells. Their removal allows for the proliferation of new skin cells. There is only a brief suggestion found in '423 that such a device may be used to remove hair (see column 9, lines 41-44). Absent from the disclosure is anything remotely sufficient to be called enabling or teaching how that skin abrasion could perform hair removal as an epilator. Absent significant modification to such a device in order to be able to perform

epilation, one skilled in the art would not consider '423 analogous art and this prior art is not an appropriate reference in the context of the pending claims.

Even if one were to consider '423 as appropriate, the tape roller disclosed therein is completely different in terms of its use and application than that claimed herein. In the method disclosed in '423, the tape roller is a separate device from the abrasion device that is used to actually apply and leave tape adhered to the skin. Figure 3 of '423 clearly illustrates that a tape roller is completely independent from the abrasion device. Therefore, any sensor in the abrasion device itself does not control the tape take-up reel for collecting the tape as is its function in the presently claimed invention. It should also be noted that '423 at column 5 lines 4-8 discloses that the sensor found within the abrasion device itself is not a pressure switch for operating the device. The '423 disclosure at column 8, lines 22-31 describes their sensor as a means for monitoring the user's progress in covering their entire body surface with the abrasion device based strictly on the predetermined time estimate it ought to take to cover a defined area. Therefore, the '423 sensor does not actually monitor contact with the skin, rather it starts a timer running. Upon an elapsed period a light goes on a section of an indicator that's in the shape of a human form. Therefore the sensors of '423 do not control the collecting of tape or the actual on and off operation of the abrasion device itself. Operation of the device is achieved by pushing a simple "on/off" button on the unit's handle as shown in Figure 13 as number 221.

It is respectfully submitted that '423 is non-analogous art that is inappropriately combined with the other references to stand as the basis of this obviousness rejection. Furthermore, even if combined, '423 cannot stand as teaching use of a pressure sensor in the device itself to operate the tape take-up reel that allows the gathering of and eventual plucking of hair follicles from the skin. It is requested that the obviousness rejection be immediately withdrawn.

2. Rejection Under 35 USC §103(a) Over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of Brown et al (US Pub. No. 2005/0234477).

Claims 16-20, 22 and 23 have been rejected under 35 USC §103(a) as being unpatentable over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub.

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No. 2006/0004383 A1) further in view of Brown et al (U.S. Pub. No. 2005/0234477) under 35 USC §103(c).

Brown or '477 is a similar device to '423 discussed above; skin care devices principally designed to remove layers of skin. The '477 device removes a sufficient amount of surface skin to diminish the appearance of discolorations including age spots, liver spots and other hormonally darkened skin; see page two paragraph [0017]. The burr disclosed therein is located at the distal end of the device and rotates and abrades (removes) the targeted skin spot. There is, however, neither disclosure nor any suggestion what so ever that this device is also capable of plucking hair follicles from the skin. As was the case in '423 above, this reference is not analogous art and is incorrectly applied in the context of the rejection based on the captioned combined references.

Even if '477 is applied in this rejection, it still does not make obvious the presently claimed invention. The office action states that the motor driving the abrasion burr is controlled using a "proximity switch" so the device need not be put down in order to turn it on and off. Referring to Figures 6A through 6D, clearly the proximity switch shown therein comprises a light sending element #126 and a light sensor #128. Upon blocking the sent beam of light with for example one's elbow, the light is reflected back wherein the sensor gathers it and to turns the abrasion device on or off. Therefore, there is absolutely no skin contacting sensor inside the device. Since the '477 device is not operated by a pressure sensor as in the device of the present invention it cannot stand as teaching use of a pressure sensor in the device itself to operate the tape take-up reel that allows the gathering of and eventual plucking of hair follicles from the skin. It is requested that the obviousness rejection be immediately withdrawn.

Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference(s). In view of the foregoing arguments presented herein reconsideration of this application, and allowance of the pending claim(s) are respectfully requested.

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Respectfully submitted,

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